

Remarks

Claims 1 and 2 have been amended such that R₃ is recited as one of several specific moieties. Support for this amendment may be found in the specification at, *inter alia*, paragraph [0158] of the published application. Accordingly, no new matter has been added by this amendment.

1. Rejection under 35 U.S.C. § 112, second paragraph

Claims 1-16, 31, 32, 33, 43 and 44 are rejected as allegedly indefinite because the Office Action asserts that as defined in the specification, the variable R₃ “embraces a monovalent group while in the formula I, R₃ is depicted as a divalent group”. The Office Action then contends that the recited alkyl, alkoxy, thioalkyl, hydroxyalkyl and carboxyalkyl are monovalent groups, and not divalent groups as required by the R₃ of formula I.

Applicants do not agree with the Examiner’s rejection. As submitted by Applicants in the previously filed response, MPEP 2173.05(a)(III) clearly states that an applicant is free to be his or her own lexicographer and may use terms in a manner contrary to or inconsistent with one or more of their ordinary meanings if the written description clearly redefines the terms (*Process Contraol Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357 (Fed. Cir. 1999)). In the definition section of Applicants’ specification at paragraph [0185] of the published application, it is stated that the term

“ ‘alkyl’ refers to both linear and branched chain radicals of up to 12 carbon atoms, unless otherwise indicated, and includes, but is not limited, to methyl, ethyl, propyl, isopropyl, butyl, isobutyl, sec-butyl, tert-butyl, pentyl, isopentyl, hexyl, isohexyl, heptyl, octyl, 2,2,4-trimethylpentyl, nonyl, decyl, undecyl and dodecyl. ”

In the above definition, “alkyl” is indicated as encompassing linear and branched chain radicals. There is no explicit or implicit limitation anywhere in the specification regarding the scope of the term “radicals.” Accordingly, one of ordinary skill in the art would interpret the term “radicals” to read broadly, *i.e.*, encompassing mono-radicals (*e.g.*, -CH₃), di-radicals (*e.g.*, -CH₂-), tri-radicals (*e.g.*, -CH-), *etc.* Further, a person of ordinary skill in the art would

clearly know from originally filed claim 5, which depends from claim 1 and in which specific di-radical moieties are recited as acceptable R_3 groups, that R_3 as recited in claim 1 would encompass di-radical moieties.

However, to expedite prosecution of this subject application, Applicants have amended independent claims 1 and 2 to recite R_3 as being “-CH₂-, -CH₂CH₂-, -CH(CH₃)-, -C(CH₃)₂-, -CH(CH₂OH)- or -CH(CH₂CH₂COOH)-”. Support for these specific di-radical moieties can be found in the specification at, *inter alia*, at paragraph [0158] of the published application. In view of this amendment, Applicants respectfully request that this rejection be withdrawn. Because this rejection was the only remaining rejection of record, all pending claims should now be in a condition for allowance.

2. Conclusion

Upon consideration of the foregoing, it will be recognized that Applicants have fully and appropriately responded to the Examiner's rejections. Accordingly, all claims are believed to be in proper form in all respects and a favorable action on the merits is respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of this amendment, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

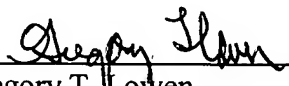
Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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Respectfully submitted,

Morgan, Lewis & Bockius LLP

Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000
Fax: 202-739-3001



Gregory T. Lowen
Registration No. 46,882
Direct: 202-739-5915